

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

Nicole Gow,

Plaintiff,

v.

Case No. _____

**Nusenda Services, LLC, d/b/a
Nusenda Credit Union, a domestic limited
liability corporation, and
Judy Sandoval,**

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. sections 1331 and 1441(a), Defendants Nusenda Federal Credit Union, incorrectly identified in the Complaint as Nusenda Services, LLC, d/b/a Nusenda Credit Union, a domestic limited liability corporation, (“Nusenda”) and Judy Sandoval (“Sandoval”) (collectively referred to as “Defendants”) give notice of the removal of the above-captioned action from the Second Judicial District Court, State of New Mexico, County of Bernalillo (“State Court”) to the United States District Court for the District of New Mexico (the “Notice”). As grounds for this Notice, Defendants state as follows:

I. INTRODUCTION

1. Plaintiff Nicole Gow (“Plaintiff”) filed the Complaint for Damages on or about August 21, 2018 with the State Court, styled as *Nicole Gow v. Nusenda Services, LLC, d/b/a Nusenda Credit Union, a domestic limited liability corporation, and Judy Sandoval*, Case No. D-202-CV-2018-06175 (the “Complaint”). *See* Exhibit A, State Court docket.

2. Defendants were served with the Complaint on or about October 3, 2018. *See* Exhibit B, Service of Process Transmittal Notice.

II. FEDERAL QUESTION JURISDICTION IS PROPER

3. This Court has original jurisdiction over this action under 28 U.S.C. Section 1331. This action may be removed to this Court by Defendants pursuant to the provisions of 28 U.S.C. Section 1441(a) because this action involves claims that relate to the laws of the United States; specifically, the Family Medical Leave Act, 29 U.S.C. Section 2601, *et seq.*

4. Plaintiffs' Complaint specifically states, "After Ms. Gow requested leave pursuant to the FMLA, Nusenda interfered with Ms. Gow's ability to avail herself of FMLA leave. As a direct and proximate result of having requested FMLA, Ms. Gow was discriminated against, subjected to disparate treatment, and eventually her employment was terminated..." See Complaint at 1, attached as Exhibit C.

5. Further, Plaintiff's Complaint states, "Defendant Nusenda through its managers and officials, retaliated against Ms. Gow through its adverse employment action in violation of the NMHRA and FMLA." See Exhibit C, at 8.

III. SUPPLEMENTAL JURISDICTION OVER STATE LAW CLAIMS IS PROPER

6. This Court has jurisdiction over Plaintiff's state law claims which have been joined with those claims arising under its federal questions jurisdiction pursuant to 28 U.S.C. section 1331, and supplemental jurisdiction over those claims pursuant to 28 U.S.C. Section 1367(a).

IV. REMOVAL IS TIMELY

7. Plaintiffs filed their Complaint on August 21, 2018. See Exhibit A.

8. Defendants were served with the Complaint on October 3, 2018. See Exhibit B.

9. This Notice of Removal therefore is timely pursuant to 28 U.S.C. Section 1446(b), which requires that notice be filed within 30 days of receipt by defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.

V. ALL OTHER REMOVAL REQUIREMENTS ARE MET

10. This Court is the appropriate venue for removal of Plaintiffs' State Action, pursuant to 28 U.S.C. Section 1441(a), which permits removal of any civil action brought in any state court in which the District Courts of the United States have original jurisdiction to the District Court for the district and division embracing the place where such action is pending.

11. A Civil Cover Sheet as required by D.N.M. LR-Civ. 3.1 is filed concurrently with this Notice.

12. Pursuant to 28 U.S.C. Section 1446(a), copies of all process and pleadings served upon Defendant are attached to this Notice as Exhibit D.

13. Defendants have requested copies of the State Court records and proceedings, which copies shall be provided to the Court within the time allotted by D.N.M. LR-Civ. 81.1(a).

14. A copy of the docket sheet from the State Court action is attached hereto as Exhibit A.

15. Pursuant to 28 U.S.C. Section 1446(d), a Notice of Notice of Removal and a copy of this Notice, were filed concurrently with the Fifth Judicial District Court, State of New Mexico, County of Lea.

16. The Notice of Notice of Removal filed in State Court, without exhibits, is attached hereto as Exhibit E.

Respectfully submitted,

JACKSON LEWIS P.C.

By: /s/Andrea K. Robeda

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CERTIFICATE OF SERVICE

We hereby certify that we electronically filed the foregoing pleading through the CM/ECF system on this 5th day of November, 2018 and emailed to the following:

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